UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/NGO/6
20 January 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 11 (d) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 January 2000]

GE.00-10324 (E)

Introduction

1. The International Federation of Human Rights (FIDH) and its Northern Ireland affiliate, the Committee on the Administration of Justice (CAJ), believe that issues of justice, rights and fairness have been at the heart of the conflict in Northern Ireland. The Good Friday Agreement promised the possibility of building a new society based on respect for human rights and the rule of law. Obviously the cornerstone of such a society must be a fully independent and properly functioning criminal justice system. An effective legal profession, free from official interference or harassment, is a central element of such a system.

2. The Good Friday Agreement makes regular reference to the importance of international human rights standards. It is therefore vital that the United Kingdom complies with those standards by, inter alia, implementing the recommendations of the Special Rapporteur on the independence of judges and lawyers contained in his report on Northern Ireland, which was presented to the Commission in 1998, and the recommendations of the Committee against Torture in November 1998. Additionally, we urge action to remedy a number of outstanding human rights concerns, many of which have been the subject of previous comment by the Human Rights Committee (1991 and 1995), the Committee against Torture (1991 and 1995), the Commission on Human Rights (1993, 1994, 1996, 1998 and 1999), the Sub-Commission (1992, 1993, 1994 and 1996), the European Committee for the Prevention of Torture (1994), and have been the cause of several adverse findings against the United Kingdom in the European Court of Human Rights.

3. Regrettably the United Kingdom Government has failed to respond adequately to these concerns.

Report of the Special Rapporteur on the independence of judges and lawyers

4. FIDH and CAJ have previously expressed concern at the continuing allegations that some police officers threaten and abuse lawyers via their clients in a manner entirely inconsistent with the United Nations Basic Principles on the Role of Lawyers. One of the lawyers about whom we had expressed concern was Rosemary Nelson.

5. On 15 March 1999 Rosemary Nelson, a human rights lawyer practising in Northern Ireland, was murdered. Her murder was claimed by the Red Hand Defenders, a loyalist paramilitary group. Although this group had been involved in previous murders, it had never used the sophisticated type of device used to kill Rosemary Nelson.

6. Rosemary Nelson was a member of the Executive Committee of CAJ. She had been a tireless defender of the human rights of her clients. When the Special Rapporteur presented his report to the Commission in 1998, he drew particular attention to her case. Although unnamed by the Special Rapporteur, his report describes how Rosemary Nelson had been the "victim of numerous death threats owing to the representation of a client, who had been charged with the murder of two [Royal Ulster Constabulary] officers" (E/CN.4/1998/39/Add.4, para. 16). The Special Rapporteur went on to describe how RUC officers had allegedly assaulted Rosemary Nelson and subjected her to sectarian abuse.

7. The Special Rapporteur recommended in his report that "[W]here there is threat to the physical integrity of a solicitor or barrister, irrespective from whom the threat emanates, the Government should provide the necessary protection and should vigorously investigate the threats and bring to justice the guilty party" (ibid., para. 91 (b))

8. CAJ and FIDH are concerned that although the Government was warned on a number of occasions about threats to Rosemary Nelson's life, it did not provide the necessary protection for her nor did it vigorously investigate the threats against her.

9. On 10 August 1998 CAJ wrote to the Minister of Security in Northern Ireland, Mr. Adam Ingram, enclosing copies of a handwritten threat to Rosemary Nelson's life and a one-page pamphlet threatening a local nationalist leader which also referred to Rosemary Nelson, his solicitor. The pamphlet included Rosemary Nelson's business address and telephone number. In our letter to the Government we reminded them of the Special Rapporteur's recommendation in relation to the need to protect lawyers who were under threat.

10. On 24 September 1998 we received a response from the Government indicating that the documents had been passed to the Chief Constable's office for investigation. The letter indicated that the police would assess the security risk against Mrs. Nelson. The police did not contact us nor, insofar as we are aware, did they contact Mrs. Nelson. However, seven months later, a few days after Rosemary Nelson was killed, the police requested originals of the written threats we had sent to the Government in order that they could be subjected to forensic examination.

11. We are also aware that the Garvaghy Road Residents Coalition, one of Rosemary's clients, had raised the issue of Rosemary Nelson's security with the Government at a number of meetings.

12. Despite these efforts, the Government did not offer protection to Rosemary Nelson. Indeed, the only suggestion that the Government made was to invite her to apply to a government protection scheme which would have necessitated the police inspecting her house and advising her on her personal security. Many of the threats against Mrs. Nelson and other solicitors emanated, as the Special Rapporteur noted, from the police. As Rosemary Nelson herself said in testimony before the United States House of Representatives Subcommittee on International Operations and Human Rights in September 1998, the scheme would mean that "your house or your premises are assessed by the RUC for these security installations. And I wouldn't have any great faith in the RUC coming in to assess that."

13. In addition, it emerged after Rosemary Nelson's death that the complaints she had made about threats she had received from RUC had been so poorly investigated by them that officers from an English police service were asked to conduct the investigation. The Independent Commission for Police Complaints (which supervises the investigation of serious complaints) issued a statement outlining the problems it found with the investigation carried out by RUC. These included general hostility, making judgements about Rosemary Nelson's moral character, and alleging that the complaints were merely propaganda against the police. The member of ICPC who compiled this report, another female lawyer, was subsequently subjected to death threats, forced to move house and take significant security precautions.

14. FIDH and CAJ have also expressed concern at the fact that the murder of leading defence lawyer Patrick Finucane in 1989 remains unsolved. Earlier this year, in response to demands for the establishment of a public inquiry into the murder, a further police investigation into the murder was launched although two previous police investigations into the murder have failed.

15. In June this year the police charged a man called William Stobie with the murder of Mr. Finucane. When he was charged, he admitted to being a police informer at the time of the murder. He said that he had alerted the police to the murder plan but they had failed to act. He also alleged that he had told the police details about the movement of the murder weapon after the killing and they again failed to intervene.

16. It has now transpired that Mr. Stobie was arrested on serious arms charges in 1989. He was brought to trial and the charges were inexplicably withdrawn. His lawyers have alleged that this was in response to a threat from Mr. Stobie to reveal what he knew about the Finucane murder. In addition, it emerged that Mr. Stobie was arrested in relation to the Finucane murder in September 1990. During his detention he confessed to his role in the murder but was released without charge.

17. Since Mr. Stobie was charged there have been a number of further arrests but no one else has been charged in connection with the murder. It does not appear that police officers or army officers, widely believed to have been involved in the murder, have been questioned about their role.

18. In April 1998 the Special Rapporteur presented his findings on his visit to Northern Ireland to the United Nations Commission on Human Rights. He said that there should be an independent judicial inquiry into the murder of Patrick Finucane to resolve the outstanding questions of official involvement in his murder (ibid., para. 95). FIDH and CAJ support these conclusions. We do not believe that the renewed criminal investigation will be successful in uncovering the truth about security force involvement in the murder.

Conclusion

19. FIDH and CAJ believe that the cornerstone of a peaceful and democratic society must be respect for the rule of law. We believe it is essential, if lasting peace is to be established in Northern Ireland, that the Government act immediately on the recommendations of the Special Rapporteur, Mr. Cumaraswamy. Additionally, the United Kingdom Government should swiftly implement the recommendations of the Committee against Torture (1998 and 1995) and those of the Human Rights Committee (1995) and dismantle the apparatus of emergency laws currently operating in Northern Ireland. We respectfully request the Commission to urge the Government of the United Kingdom to comply immediately with its international human rights obligations in this regard.